

Remarks

Preliminary Matters

No claims have been added. No fee is due. If the Office disagrees, Applicants ask that Deposit Account No. 07-1077 be charged for the amount.

Information Disclosure Statement

The undersigned has supplied two documents on February 5, 2009. The undersigned has identified the Foreign Patent Document on the Form PTO/SB/08a with as much information as the undersigned was able to do and provided copy of it. It would seem that the Norwegian patent system allows for what is tantamount to a deposit of an idea of an invention to establish a filing date of that idea. The undersigned has no additional information and even went, unsuccessfully, to the Norwegian Patent Office website to determine if any additional information were available. The “Nessa, Photo of Flat Wall Prototype, 2000” also is the only information the undersigned has about the prototype.

Applicants request that these two documents be considered on the merits as a timely filed Information Disclosure Statement.

Applicants thank the Office for considering the IDS submitted on March 23, 2009.

§112, First Paragraph Rejections of Claims 1, 6, and 8

The Office has rejected the pending claims because it is asserted that the specification does not “appear to have originally disclosed an ‘apparatus ...consisting of a wall panel, wherein the wall panel consists of one substantially flat wall and two wall panel ends and a male engagement portion at each end, wherein each male engagement portion consists of a fin, wherein both fins extend from one side of the wall panel’.”

As explained in the last response, Claim 1 is directed to Fig. 6. The phrase above is repeated with the reference numbers found on Page 39 of the specification:

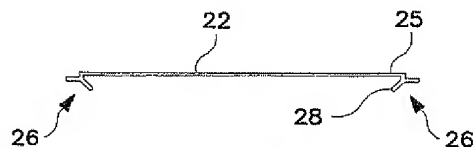


FIG. 6

apparatus ...consisting of a wall panel (22), wherein the wall panel (22) consists of one substantially flat wall (22) and two wall panel ends (25) and a male engagement portion (26) at each end (25), wherein each male engagement portion consists of a fin (28), wherein both fins (28) extend from one side of the wall panel (22)

Page 14, Lines 15 et seq. provide prose to explain Fig. 6. The fins extending from one side of the wall panel is explained at Page 14, Lines 17-19 and the sentence bridging Pages 12 and 13. The phrase “substantially flat wall” is explained at Page 15, Lines 22 et seq.

A person having ordinary skill in the art (PHOSITA) would readily and completely understand that the language of Claim 1 describes the appearance of Fig. 6 and the specification sentences identified above.

§112. Second Paragraph Rejections of Claims 1, 6, and 8

The Office also rejects the same claim language for Second Paragraph reasons, referring to an elected species which the Office has previously rejected as unsupported by the specification. Again, the Office must assess what PHOSITA would understand to have been pointed out, not whether each and every word of a Claim is placed like a quotation in the specification. The language of Claim 1 does particularly point out and distinctly claim what appears in Fig. 6, using the terminology of the textual

specification, the Listing of Reference Numerals to associate the textual specification with the drawings, and Fig. 6 itself.

With respect to Claim 6, Applicants cancel that claim with reservation to file a continuation application, in order to remove that part of the rejection from the allowance or appeal.

§102(b) Rejection of Claims 1, 6, and 8 using U.S. Pat. No. 6,021,618
(Elderson)

First, it should be recognized that Applicants in their last amendment and response overcame four separate §102 rejections. Now, the Office presents Patent '618 and, by Office procedure, establishes a Final Rejection.

Elderson discloses a metal stud to replace wood studs to form a wall. The metal stud 14 have a pair of L-shape flanges 20 extending perpendicularly from the web 18.

Every word of Claim 1 must be given meaning by the Office; that will certainly if a patent claim were to be enforced.

The Office has not given any meaning to "each fin is adapted to engage a matching female engagement portion on one elongated, octagonal tubular form element."

PHOSITA would read that phrase, go to the specification and drawings and understand that the fin as a type of male engagement portion is configured to mate with a female engagement portion, such as shown in Figs. 7 and 8 and explained in the specification at Page 15, Lines 4 et seq.

The L-shape flanges 20 of Elderson do not anticipate the fins 28 of Applicants' claims.

Update on Copending U.S. Patent Application Serial No. 10/531,621 for
"Concrete Fillable Formwork"

In Applicants' Information Disclosure Statement of September 12, 2005,

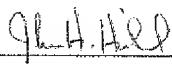
Applicants identified Application '621 as also filed by Applicants. Both this application and that Application '621 claim priority from the same Provisional Patent Application 60/419,469.

The undersigned notifies this Examiner that Application '621 has issued as U.S. Pat. No. 7,559,176.

Conclusion

Applicants request a Notice of Allowance for Claims 1 and 8. Applicants are ready for a Notice of Allowance or a Notice of Appeal.

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